



UNITED STATES DEPARTMENT OF COMMERCE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/975,284	11/20/97	HERMOS	M 060850.P002

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EXAMINER

WELDON, K

ART UNIT

3752

PAPER NUMBER

3

DATE MAILED: 12/31/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.	995284	Applicant(s)	Thomos
Examiner	K. Weldon	Group Art Unit	3752

Responsive to communication(s) filed on 11/20/99.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire Three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-11 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3752

1. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is considered to be confusing. It recites "the body member defines a single hole in the outlet end, and further comprising". What further comprises? The nozzle? Or the body member?

In lines 3-5 of claim 4 lines 3-4 the applicant recites "the flange member engaging a portion of the body defining the single hole" causing confusion. Doesn't it engage the entire circumference of the single hole?

The claims have been examined as best understood by the examiner.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodriguez-Ely.

The Rodriguez-Ely patent in figure 1 discloses a nozzle comprising a body member having a tube *a* for passing oxygen, a passage *b* for oxygen and a tube the tube and housing defining an annular chamber in communication with a plurality of radially distributed outlet ports *d*. The figure 1 embodiment shows a coupling means for supplying the oxygen tube but it is

Art Unit:

unnumbered, the fuel passage  $\alpha$  inherently must have a coupling means for connecting a supply of fuel to the passage  $\alpha$ .

4. Claims 1,4-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yerkins 3477112.

The Yerkins patent discloses a body member 24 having a straight bore 28 and an angular bore 32, a concentric tube 26 and a plurality of outlets 48 surrounding the tube outlet.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez-Ely in view of Zwicker.

In column 3 lines 60-65 the Zwicker patent discloses constructing the torch from a corrosion resistant material such as stainless steel. It is deemed to have been obvious to one of ordinary skill in the art to incorporate stainless steel to construct Rodriguez-Ely's torch to prevent corrosion.

7. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez-Ely in view of Magner .

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It is deemed to have been obvious to one of ordinary skill in the art to construct the body member to include integral radially spaced outlets about the center passage for ease in construction.

8. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Rodriguez-Ely in view of Yerkins 3477112

It is

deemed to have been obvious to one of ordinary skill in the art to incorporate a flange as taught by Yerkins '112 at 44 about the tube in Rodriguez-Ely to permit quick and easy replacement of all outlets.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez-Ely in view of Pierce.

In figures 10/15 of Pearce openings about the central tube opening are formed by cooperating members such as the grooves. It is deemed to have been obvious to one of ordinary skill in the art to form the openings by cooperating grooves between the central tube and body member in Rodriguez-Ely to provide openings and simultaneously center the concentric tubes.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilcox is cited for its concentric tubes and angular fuel passage. Harris is cited for its grooves/guides. Emory is cited for its flange on the body.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Weldon whose telephone number is (703) 308-1117. The examiner can normally be reached on Tues-Fridays from 7 am to 6 pm.

Art Unit:

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andres Kashnikow, can be reached on (703) 308-1137. The fax phone number for this Group is (703) 305-3588.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3588.

*Kevin Weldon*  
12/27/95  
Kevin Weldon  
Primary Examiner